

REMARKS

The Examiner has advanced a TWO (2) way Restriction Requirement.

With respect to the restriction requirement, the Examiner requires Applicants to elect one of TWO (2) inventions allegedly disclosed in the above application.

Group I, claims 1-8, and 10-12, drawn to, inter alia, a method of identifying an analyte comprising providing a cell comprising a reporter gene operably linked to a regulatory region responsive to Apidicin, Trichostatin A, sodium butyrate, SAHA and MS27-275.

Group II, claims 1-8, and 10-12, drawn to a cell comprising a reporter gene operably linked to a regulatory region responsive to Apidicin, Trichostatin A, sodium butyrate, SAHA and MS27-275.

Restriction of claims belonging to each one of Groups I (method of identifying) and Group II, (cell comprising a reporter gene) under 35 U.S.C. 121 is respectfully traversed. It is respectfully submitted that a search of the Group II claims, drawn to the cell would, of necessity, include a search of the Groups I claims since these relate to the use of the cells of group II. Consequently, these groups should be combined.

As such, no savings of PTO resources will be achieved by enforcing the election/restriction requirement presently asserted. Accordingly, reconsideration and withdrawal of the requirement for election/restriction of the claims, e.g., by combining Groups I and II is respectfully requested.

In order to be fully responsive, Applicants elect the invention defined by the Group I claims without prejudice to the prosecution of the non-elected claims in a related patent application.

Applicants retain the right to petition from the restriction requirement under 37 C.F.R. §1.144. Favorable reconsideration of the Restriction requirement is respectfully requested.

It is believed that the claims are in a condition for allowance and a notice to that effect is earnestly solicited.

If the Examiner believes that a telephone conference would be of value, he is requested to call the undersigned counsel at the number listed below.

Any additional fees required in connection with this submission may be taken from Merck Deposit Account No. 13-2755.

Respectfully submitted,

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